

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 3:07cv813-MHT
)	
ONE REMINGTON RIFLE, MODEL)	
7400, 30-06 CALIBER, BEARING)	
SERIAL NUMBER 8084 and)	
ONE MARLIN RIFLE, MODEL 120,)	
.22 CALIBER, BEARING SERIAL)	
NUMBER 27367587,)	
)	
Defendants.)	

MOTION FOR DECREE OF FORFEITURE

Pursuant to the Federal Rules of Civil Procedure and Rule G of the Supplemental Rules for Admiralty or Maritime and Asset Forfeiture Claims, the United States of America (United States) respectfully moves this Court for entry of a Decree of Forfeiture. This Motion is supported by the previously filed Verified Complaint for Forfeiture In Rem, Warrant for Arrest In Rem, and Recommendation of the Magistrate Judge.

A proposed Decree of Forfeiture is submitted herewith.

Respectfully submitted this 6th day of March, 2008.

LEURA G. CANARY
UNITED STATES ATTORNEY

/s/Tommie Brown Hardwick
TOMMIE BROWN HARDWICK
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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/CECF participant:

Rex A. May, Sr.
171 County Road 603
Wedowee, Alabama 36278.

Respectfully submitted,

/s/Tommie Brown Hardwick
TOMMIE BROWN HARDWICK
Assistant United States Attorney

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DECREE OF FORFEITURE

Before the Court is the United States' Motion for Decree of Forfeiture. This is a civil forfeiture action in which the United States seeks the civil forfeiture in rem of the following firearms: **One Remington Rifle, Model 7400, 30-06 Caliber, bearing serial number 8084 and One Marlin Rifle, Model 120, .22 Caliber, bearing serial number 27367587.**

The Court, being fully advised of the premises, finding that the United States has furnished due and legal notice of this proceeding as required by statute; that all persons known to the United States with a possible interest in the defendant firearms received actual notice of the action together with a copy of the Verified Complaint for Forfeiture In Rem and Warrant for Arrest In Rem and that such actual notice of the forfeiture action and arrest

was provided to Rex A. May, Sr. (May), Linwood Johnson and Patricia Lynn Shafer.

May asserted his ownership in the firearms by letter to Assistant United States Attorney John Harmon. Mr. Harmon forwarded the letter to the Clerk's Office and it was docketed on October 2, 2007. Two days later, May filed a claim form with the Court. On October 5, 2007, the Court advised May that his asserted ownership interest claim was deficient. Specifically, the Court advised May that his claim form was unsworn. May was instructed on the proper procedure and method for verifying the claim and given a deadline of October 22, 2007, to file his verified claim. The time for filing a verified claim expired over four months ago and May has not filed a verified claim nor has he sought to file an extension of time to file a verified claim.

On January 23, 2008, the United States filed a motion to strike May's claim on the ground that it was not signed under penalty of perjury. May did not respond to the motion although given two opportunities to do so.

On February 26, 2008, the Magistrate Judge entered her Recommendation to grant the United States' motion to strike, further stating that because May has not filed a verified claim, he lacks standing as a claimant in this action.

IT IS THEREFORE **ORDERED, ADJUDGED** and **DECREED** that:

Final Judgment of Forfeiture of the above mentioned defendant **firearms** is hereby entered in favor of the United States.

IT IS FURTHER ORDERED that the United States shall dispose of the defendant firearms in accordance with Title 21, United States Code, Section 881(e) or other applicable law.

IT IS SO ORDERED this _____ day of _____, 2008.

UNITED STATES DISTRICT JUDGE